

# EXHIBIT “A”

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

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 )  
 IN RE TESLA, INC. ) Civil Action No.  
 ) 3:18-cv-04865-EMC  
 SECURITIES LITIGATION )  
 )  
 -----)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

VIDEOTAPED DEPOSITION OF DAVID ARNOLD

VOLUME I

APPEARING VIA VIDEOCONFERENCE FROM

PALM SPRINGS, CALIFORNIA

THURSDAY, SEPTEMBER 30, 2021

9:01 A.M. - 2:17 P.M. PST

STENOGRAPHICALLY REPORTED BY:

CHERYL ASADA

CA CSR NO. 13496

WA CCR NO. 21000937

FILE NO. 200187

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September 30, 2021

9:01 a.m.

CONFIDENTIAL - SUBJECT TO PROTECTIVE  
ORDER, VIDEOTAPED DEPOSITION OF DAVID ARNOLD,  
appearing via videoconference from Palm  
Springs, California, before Cheryl Asada,  
California Certified Shorthand Reporter  
No. 13496, Washington Certified Court Reporter  
No. 21000937.

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A P P E A R A N C E S:

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A P P E A R A N C E S (continued):

ALSO PRESENT:

JOEL CORIAT, Videographer

(Appearing via videoconference)

CANDACE JACKMAN, In-House Counsel from

Tesla

(Appearing via videoconference)

## I N D E X

## W I T N E S S :

DAVID ARNOLD

PAGE

EXAMINATION BY MR. PORRITT

10

## INFORMATION REQUESTED:

(NONE)

## QUESTIONS INSTRUCTED NOT TO ANSWER:

(NONE)

## PREVIOUSLY MARKED EXHIBITS:

NUMBER	PAGE
Exhibit 8	60
Exhibit 9	68
Exhibit 10	69
Exhibit 11	71
Exhibit 12	84
Exhibit 13	87
Exhibit 87	47

## E X H I B I T S

NUMBER	DESCRIPTION	PAGE
Exhibit 296	5/3/2018 E-mail chain (TESLA_LITTLETON_00014243 to TESLA_LITTLETON_00014260) - Confidential	38
Exhibit 297	6/12/2018 E-mail (SPACEX_LITTLETON_00000133) - Confidential	46

E X H I B I T S  
(CONTINUED)

NUMBER	DESCRIPTION	PAGE
Exhibit 298	8/7/2018 E-mail chain (TESLA_LITTLETON_00018287) - Confidential	52
Exhibit 299	8/17/2018 E-mail (TESLA_LITTLETON_00013639) - Confidential	76
Exhibit 300	8/7/2018 E-mail chain (TESLA_LITTLETON_00013628 to TESLA_LITTLETON_00013631) - Confidential	78
Exhibit 301	8/7/2018 E-mail chain (TESLA_LITTLETON_00018995 to TESLA_LITTLETON_00018997) - Confidential	84
Exhibit 302	8/17/2018 E-mail chain (TESLA_LITTLETON_00018261) - Confidential	90
Exhibit 303	8/7/2018 E-mail chain (TESLA_LITTLETON_00005303) - FOIA Confidential Treatment Requested by Tesla Not Subject to Disclosure Pursuant to 5 U.S.C. 552 (b) Confidential	93
Exhibit 304	8/7/2018 E-mail chain (TESLA_LITTLETON_00014429 to TESLA_LITTLETON_00014430)	98
Exhibit 305	8/8/2018 E-mail chain (TESLA_LITTLETON_00018913) - Confidential	100
Exhibit 306	8/9/2018 E-mail chain (TESLA_LITTLETON_00018851) - Confidential	103
Exhibit 307	8/9/2018 E-mail (TESLA_LITTLETON_00018875) - Confidential	105

E X H I B I T S  
(CONTINUED)

NUMBER	DESCRIPTION	PAGE
Exhibit 308	3/10/2018 E-mail chain (TESLA_LITTLETON_00015641 to TESLA_LITTLETON_00015642) - Confidential	114
Exhibit 309	8/10/2018 E-mail chain (TESLA_LITTLETON_00015996) - Confidential	115
Exhibit 310	8/10/2018 E-mail chain (TESLA_LITTLETON_00015997 to TESLA_LITTLETON_00015998) - Confidential	119
Exhibit 311	8/11/2018 E-mail (TESLA_LITTLETON_00004866) - Confidential	121



1 Mr. Porritt, I'm sorry. I couldn't  
2 understand what you were just saying, please.

3 MR. PORRITT: Oh, I apologize.

4 BY MR. PORRITT:

5 Q I only really have questions about the first  
6 page of Exhibit 303, but please review what you need  
7 of the exhibit. Meanwhile, I'll introduce it into the  
8 record.

9 MR. PORRITT: Exhibit 303 is a document  
10 Bates-stamped TESLA\_LITTLETON\_00005303 to 5307.

11 THE WITNESS: Yes, I've scanned this. I  
12 have not read the full text of The Wall Street  
13 Journal and New York Times article below that, but  
14 it's not relevant to the question.

15 BY MR. PORRITT:

16 Q So this is an e-mail that you sent on  
17 August 7th, 2018?

18 A Yes.

19 Q Okay. And just to be clear, I think the  
20 timestamps may be off by -- they may be in the  
21 afternoon of August 7th, 2018, based on the timestamp.

22 It's to a distribution list ExecStaff. Do  
23 you see that?

24 A Yes, I see that.

25 Q Do you know who was on that distribution

1 list?

2 A I don't know exactly who was on that, but it  
3 was our executive team, as I recall.

4 Q Okay. Was Elon Musk on that distribution  
5 list?

6 A I believe so.

7 Q You'll see here in Exhibit 303 -- well, first  
8 of all, this paragraph is saying -- you know, you  
9 start off "FYI," and then you say, "following up blog  
10 post." And then there's a remaining paragraph.

11 Are those -- is that something that you  
12 wrote?

13 A Most likely, that is something -- as we saw  
14 in some previous e-mails, there's an employee named  
15 Erica Chen who, one of her responsibilities was to,  
16 sort of, collate coverage. I suspect that she -- she  
17 drafted this.

18 Q Okay. But you would have read it before  
19 putting it into this e-mail around to the ExecStaff?

20 A I would have likely scanned it. Probably  
21 unlikely that I read the whole thing word-for-word.

22 Q You'll see here in that first paragraph, it's  
23 written:

24 "The predominant theme throughout  
25 coverage is that the e-mail 'did not make

1 any mention of financing reference in  
2 Musk's original tweet' and 'gave no gave  
3 further details on how he would fund a  
4 deal or when he hoped to make the buyout  
5 offer,'"

6 Do you see that?

7 A I do.

8 Q At this time, do you recall having any  
9 question in your mind about how you should address  
10 media inquiries regarding the source of financing for  
11 the go-private transaction?

12 A Again, I don't recall exactly. We were  
13 still -- at this point, would've just been pointing to  
14 the initial blog post that we published. I -- I would  
15 imagine that, you know, as we're seeing this theme  
16 come through in media, we figured it was something  
17 that, at some point, we should figure out how to  
18 address.

19 Q Okay. Do you recall when you came up with a  
20 message on the financing for the go-private  
21 transaction?

22 A I don't.

23 Q Do you recall who was tasked with coming up  
24 with a message to give to -- in response to media  
25 inquiries regarding financing?

1  
2 STATE OF CALIFORNIA     )  
3                                     )     ss.  
4 COUNTY OF LOS ANGELES )

5           I, DAVID ARNOLD, do hereby certify under penalty  
6 of perjury that I have read the foregoing transcript  
7 of my deposition, taken on SEPTEMBER 30, 2021; that I  
8 have made any corrections, additions, or deletions to  
9 reflect my accurate testimony; that my transcript is a  
10 true and accurate transcription of my testimony.

11  
12           Signed at \_\_\_\_\_, \_\_\_\_\_.  
13                                     (City)                                     (State)

14           \_\_\_\_\_  
15                                     DAVID ARNOLD

\_\_\_\_\_  
(Date)

1  
2 STATE OF CALIFORNIA       )  
  ) ss.  
3 COUNTY OF LOS ANGELES    )

4  
5           I, CHERYL ASADA, CSR No. 13496, certify: That  
6 the foregoing proceedings were taken via remote  
7 videoconference at the time and place herein set  
8 forth; at which time the witness was duly sworn; and  
9 that the transcript is a true record of the testimony  
10 so given.

11           The dismantling, unsealing, or unbinding  
12 of the original transcript will render the  
13 reporter's certificate null and void.

14           I further certify that I am not financially  
15 interested in the action, and I am not related to any  
16 of the parties in this case.

17           Witness review, correction, and signature was  
18 ( ) By Code (X) Requested ( ) Not requested.

19  
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21           Dated this 12TH day of OCTOBER, 2021.

22  
23 

24           \_\_\_\_\_  
                  CHERYL ASADA, CSR 13496

## ERRATA SHEET

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2 Case Name:

3 Deposition Date:

4 Deponent:

5 Pg. No. Now Reads Should Read Reason

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Signature of Deponent

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SUBSCRIBED AND SWORN BEFORE ME

23 THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.

24 \_\_\_\_\_

25 (Notary Public) MY COMMISSION EXPIRES: \_\_\_\_\_

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3 SAN FRANCISCO DIVISION

4 ----- )  
5 IN RE TESLA, INC. ) Civil Action No.  
6 SECURITIES LITIGATION ) 3:18-cv-04865-EMC  
7 \_\_\_\_\_ )  
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12 CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

13 VIDEOTAPED DEPOSITION OF DAVID ARNOLD  
14 VOLUME II

15 APPEARING VIA VIDEOCONFERENCE FROM

16 PALM SPRINGS, CALIFORNIA

17 THURSDAY, FEBRUARY 24, 2022

18 8:04 A.M. - 11:11 A.M.  
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23 Stenographically Reported by:

24 Tami L. Le, CSR No. 8716, RPR

25 Job No. 207086

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February 24, 2022  
8:04 a.m.

\*\* CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER \*\*

REMOTE VIDEOTAPED DEPOSITION OF DAVID  
ARNOLD, appearing via Zoom videoconference  
from Palm Springs, California, before Tami L.  
Le, Registered Professional Reporter and  
California Certified Shorthand Reporter  
No. 8716 in the State of California.



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QUINN EMANUEL URQUHART & SULLIVAN

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New York, New York 10010

BY: ALEX SPIRO, ESQ.

ALSO PRESENT:

STEPHAN ANDREYCHUK, Videographer

(Appearing via videoconference)

## I N D E X

WITNESS: DAVID ARNOLD

EXAMINATION

PAGE

BY MR. PORRITT

138

## E X H I B I T S

NUMBER

DESCRIPTION

MARKED

Exhibit 338 - August 11, 2018 Reuters article, "Saudi Arabia's PIF has shown no interest in bankrolling Tesla's buyout - sources" 151

Exhibit 339 - Email string, top email dated 8/13/2018 from Erica Chen to Dave Arnold, Bates-stamped TESLA\_LITTLETON\_00013913 through TESLA\_LITTLETON\_00013915 153

Exhibit 340 - Email dated 8/13/2018 from Dave Arnold to Elon Musk, Bates-stamped TESLA\_LITTLETON\_00005739 166

Exhibit 341 - Email string, top email dated August 13, 2018 from Mitchell Schwenz to Dave Arnold and Sarah O'Brien, Bates-stamped TESLA\_LITTLETON\_00004744 through TESLA\_LITTLETON\_00004749 173

Exhibit 342 - Email string, top email dated August 13, 2018 from Dave Arnold to Todd Maron and Sarah O'Brien, Bates-stamped TESLA\_LITTLETON\_00019019 and TESLA\_LITTLETON\_00019020 178

## I N D E X (Continued)

## EXHIBITS (Continued)

NUMBER	DESCRIPTION	MARKED
Exhibit 343	- August 13, 2018 The New York Times article, "Tesla Board Surprised by Elon Musk's Tweet on Taking Carmaker Private"	192
Exhibit 344	- August 14, 2018 The New York Times article, "Elon Musk's Effort to Take Tesla Private to Get Board Oversight"	194
Exhibit 345	- Email string, top email dated August 14, 2018 from Todd Maron to Dave Arnold, Sam Teller and Kamran Mumtaz, Bates-stamped TESLA_LITTLETON_00018695 through TESLA_LITTLETON_00018698	196
Exhibit 346	- Email string, top email dated 8/15/2018 from Kamran Mumtaz to Dave Arnold, Bates-stamped TESLA_LITTLETON_00010932	208
Exhibit 347	- Email string, top email dated 8/15/2018 from Dave Arnold to Alexandria Sage, Bates-stamped TESLA_LITTLETON_00011210 and TESLA_LITTLETON_00011211	210
Exhibit 348	- CNet article, "Elon Musk's strange, strange Ambien tweet"	217
Exhibit 349	- Email dated 8/16/2018 from Dave Arnold to Dave Arnold, Bates-stamped TESLA_LITTLETON_00010920	220

## I N D E X (Continued)

## EXHIBITS (Continued)

NUMBER	DESCRIPTION	MARKED
Exhibit 350	Email string, top email dated 8/17/2018 from Dave Arnold to Sarah O'Brien, Bates-stamped TESLA_LITTLETON_00011183 through TESLA_LITTLETON_00011187	221
Exhibit 351	Email string, top email dated 8/19/2018 from Dave Arnold to Emily Stewart, Bates-stamped TESLA_LITTLETON_00011150 through TESLA_LITTLETON_00011154	226
Exhibit 352	Vox post, "Elon Musk's plan to own investors betting against Tesla is backfiring"	231
Exhibit 353	Email dated 8/20/2018 from Dave Arnold to Dave Arnold, Bates-stamped TESLA_LITTLETON_00010663	232
Exhibit 354	Email string, top email dated 8/21/2018 from Sam Teller to Sarah O'Brien, Bates-stamped TESLA_LITTLETON_00010507 and TESLA_LITTLETON_00010508	234
Exhibit 355	Email string, top email dated 8/21/2018 from steller@tesla.com to Sarah O'Brien and Dave Arnold, Bates-stamped TESLA_LITTLETON_00012468	235

## I N D E X (Continued)

## EXHIBITS (Continued)

NUMBER	DESCRIPTION	MARKED
Exhibit 356 -	Email dated 8/22/2018 from Dave Arnold, Bates-stamped TESLA_LITTLETON_00010403 and TESLA_LITTLETON_00010404	238
Exhibit 357 -	Email dated 8/24/2018 from Dave Arnold to Dave Arnold, Bates-stamped TESLA_LITTLETON_00010223	240
Exhibit 358 -	Email string, top email dated 8/26/2018 from Dave Arnold to Sarah O'Brien, Bates-stamped TESLA_LITTLETON_00019182 through TESLA_LITTLETON_00019185	252
Exhibit 359 -	Email dated 8/24/2018 from steller@tesla.com to Sarah O'Brien, Bates-stamped TESLA_LITTLETON_00019432	248
PREVIOUSLY MARKED EXHIBITS:		PAGE
Exhibit 12 -		144
Exhibit 16 -		159
Exhibit 98 -		211
Exhibit 171 -		213
Exhibit 220 -		223
Exhibit 229 -		247
Exhibit 311 -		141

1 Q. And I think -- I believe you testified  
2 in your last deposition, but if you don't mind  
3 reminding us, who is Erica Chen?

4 A. She was a member of the communications  
5 team.

6 Q. And she would routinely prepare these  
7 summaries; correct?

8 A. Right, for -- you know, for news cycles  
9 that were -- you know, for bigger news cycles or  
10 news cycles where it would be something we'd  
11 potentially want to share with others inside the  
12 company, and she would compile these summaries so  
13 you didn't have to, you know, read every article  
14 word for word. You could sort of get the gist of  
15 it, so to speak, just by looking at this summary.

16 Q. Okay. And she would use her judgment as  
17 to which articles she would, you know, contain  
18 quotes from or summarize and some she would just  
19 include a link to?

20 A. Yes.

21 Q. There's an email in the middle of -- the  
22 second email on this chain -- on the first page of  
23 Exhibit 339, there's an email from you saying:

24 "One of the themes we should  
25 keep an eye out for is any

1 reporting that Elon walked back  
2 his," quote, "'funding secured,'"  
3 close quote, "language from last  
4 week."

5 Do you see that?

6 A. I do.

7 Q. Why were you -- why did you send that  
8 message to Erica Chen?

9 A. Well, I suspect I was, you know, looking  
10 at this news coverage summary actually provided, and  
11 there was some language in here -- for example, in  
12 the third paragraph of her email where it says:

13 "Cowen analyst Jeffrey Osborne  
14 told Bloomberg, 'Funding secured  
15 certainly doesn't look secured in  
16 my mind.'"

17 I think I probably read that and -- you  
18 know, part of my job as communications person at  
19 Tesla is to try and get a sense of where is the news  
20 cycle going to go, what should -- what kind of, you  
21 know, lines of inquiry should we expect next from  
22 reporters. And my sense was that that question was  
23 being asked -- or that statement was being made, you  
24 know, we might see more of that, and so I wanted to  
25 just keep tabs on it.

1 Q. Does this reflect the fact that "funding  
2 secured" language had been subject to inquiries  
3 before this date?

4 A. You're saying is my sending of that  
5 email also a reflection of the fact that we may have  
6 gotten inquiries on that previously?

7 Q. Yes.

8 A. Yeah, I imagine that may have gone into  
9 my calculations in terms of sending that email.

10 Q. After this -- you know, after  
11 August 13th, do you recall getting further inquiries  
12 regarding the meaning of "funding secured"?

13 A. Again, I don't recall the specific  
14 timeline of when we got questions about what topic,  
15 but I would imagine we did get questions on that  
16 sort of throughout the process -- excuse me,  
17 throughout the -- this whole period.

18 Q. Do you recall having any discussions  
19 with anyone else at Tesla regarding keeping an eye  
20 out for any reporting that Elon walked back his  
21 "funding secured" language?

22 A. Not specifically. I mean, it wouldn't  
23 surprise me if I had said something similar to my  
24 other colleagues as well.

25 Q. Okay. That might be Aaron Chew?



1           A.     I -- I -- I don't recall specifically.  
2     It -- it wouldn't surprise me if there was others,  
3     but I -- I think it was primarily Todd.

4           Q.     Okay. Now, this is -- this blog post is  
5     written in the first person; correct?

6           A.     It is.

7           Q.     Okay. And it's -- Elon Musk has the  
8     byline, so to speak?

9           A.     Correct.

10          Q.     Do you know why Todd Maron and yourself  
11     and Sarah O'Brien were drafting a document that was  
12     being issued in the name of Elon Musk?

13          A.     I don't think -- in my experience,  
14     anyway, speaking generally, I don't think that's  
15     particularly unusual if, you know, an executive is  
16     going to put out -- if you see a blog post or a  
17     statement from an executive, you know, sometimes --  
18     not always, but that's -- that's not infrequently  
19     drafted with the assistance of, you know, members of  
20     the communications team, legal, so on and so forth.  
21     And so I sort of put this in that same category.

22          Q.     What do you mean by the "same category"?  
23     As a statement by Tesla's CEO?

24          A.     Yeah, correct, a statement by Elon Musk  
25     that, you know, he, as I recall, you know, would

## J U R A T

I, \_\_\_\_\_, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on \_\_\_\_\_; that I have made such corrections as appear noted herein in ink, initialed by me; that my testimony as contained herein, as corrected, is true and correct.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
SIGNATURE OF WITNESS

C E R T I F I C A T E

STATE OF CALIFORNIA )

) ss.:

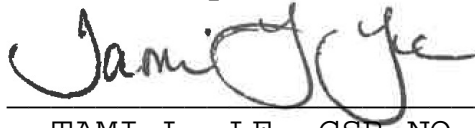
COUNTY OF ORANGE )

I, TAMI L. LE, Certified Shorthand  
Reporter within and for the State of  
California, do hereby certify:

That DAVID ARNOLD, the witness whose  
deposition is hereinbefore set forth, was duly  
sworn by me and that such deposition is a true  
record of the testimony given by such witness.

I further certify that I am not related  
to any of the parties to this action by blood  
or marriage; and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 8th day of March, 2022.



TAMI L. LE, CSR NO. 8716, RPR

1 NAME OF CASE:

2 DATE OF DEPOSITION:

3 NAME OF WITNESS:

4 Reason Codes:

5 1. To clarify the record.

6 2. To conform to the facts.

7 3. To correct transcription errors.

8 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

9 From \_\_\_\_\_ to \_\_\_\_\_

10 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

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12 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

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14 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

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22 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

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